

insufficiency of the personal estate of the deceased to pay his debts; to notify his heirs, that they may have an opportunity of

cellor on a further consideration of his petition, and the arguments in writing urged against it.

After which the case was again submitted, at the instance of the widow to obtain a portion of the proceeds of sale in lieu of dower.

KILTY, C., 14th September, 1813.—The widow Ann Spurrier is allowed, (her age being proved) one-eighth part of the net proceeds of the land sold to G. Calvert and also of the small tract sold to William C. Spurrier. The claim No. 25 having been paid, according to the former order before that of May 26th, 1813, is confirmed. The claim No. 24 is rejected. A distribution of the balance to be made as follows:—The same to be divided into eight parts, one of which is to be reserved for the decision of the claim of Roderick Warfield. The amount of the other seven parts to be equally divided between John and Ann Cumming, William C. Spurrier, John Spurrier, Eliza Spurrier, Richard Spurrier, and Horace Spurrier, Lewis being stated to have died since the sale, and since the death of Henrietta Warfield. The payment of the shares of John Spurrier, Eliza Spurrier, Richard Spurrier, and Horace Spurrier, who are minors, to be made to their mother Ann Spurrier the petitioner, on the approval by the Chancellor of a bond to be filed by her with two sufficient sureties with condition similar to that in guardians' bonds, but reciting the sale, &c. under the decree of this Court; and not before. Interest to be paid on the shares in proportion as it has been, or may be received. The petition of Roderick Warfield will be taken up this month on the application of either party.

Proofs having been collected under the order of the 1st of October, 1812, to establish the facts set forth in the petition: it appears by the notes of Mr. A. C. Magruder, submitted in opposition to the prayer of this petition, that he insisted, that the husband could at most be considered only as a tenant by the courtesy; especially for that part which had been sold after the death of the wife: that, even if it were to be considered as her money, yet it was a mere equitable title which the husband could not reduce into possession without making a proper settlement. (1 Ves. 538; 3 P. Will. 13.) But, that, in this case, the proceeds must be regarded as land, and pass as the real estate would have passed had the sales not been made; and it had been so held, after much consideration, by the County Court of Prince George's in a similar case: and the husband was required to give good security, (considering him as tenant by the courtesy,) that her children should have the money after his death.

KILTY, C., 29th November, 1813.—On the within petition notes have been filed by the counsel on behalf of the heirs, and it has been submitted on the part of the petitioner. The original bill or petition appears to have been filed under the 12th section of the Act of 1785, ch. 72, the intention of which appears to have been to turn the land into money for the purpose of division. Which sale the Court is not bound to order unless for the interest and advantage of all parties. And the practice has been, as far as the Chancellor has been informed, to divide the proceeds as personal estate. And the Acts respecting widows entitled to dower, and tenants, and tenants by the courtesy, are in the same spirit. It is therefore, ordered, that the part allotted